IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12448 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL GANGABEN JIVABHAI & 1 - Petitioner(s)

Versus

PATEL LAXMANBHAI NATHABHAI - Respondent(s)

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Appearance :

MR JV JAPEE for Petitioner No(s).: 1,2.

MR AM PAREKH for Respondent No(s).: 1.

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CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 19/07/2005

ORAL JUDGMENT:

1. **By filing instant petition under Article 227 of the Constitution of India, the petitioners seek to challenge the order dated 11.4.2005 rendered in CAFO No.10 of 2003 by the learned Assistant Judge, Sabarkantha at Himatnagar by which the appeal filed by the**

respondent/original defendant came to be allowed and thereby the order dated 15.3.2003 recorded below application Ex.5 in RCS No.232 of 2002 by the learned 3rd Joint Civil Judge (JD), Himatnagar allowing the application Ex.5 by directing both the parties to maintain status quo with regard to the suit property came to be set aside.

2. **Having heard Mr. JV Japee, learned advocate of the petitioners and Mr. AM Parekh, learned advocate of the respondent and having perused the order which is impugned, according to this court, the order dated 15.3.2003 recorded below Ex.5 in RCS No.232 of 2002 is required to be confirmed and maintained by directing both the parties to maintain status quo with regard to the suit property as existed on the date of 18.12.2002 when the trial court has passed ad-interim exparte order directing both the parties to maintain status, would meet the ends of justice.**

3. **It is made clear that this Court has not examined the merits of the case of either of the parties. Since the findings recorded by both the courts below are at inter-interlocutory stage they are tentative in nature. Therefore, the learned Civil Judge (J.D.)., Himatnagar who shall conduct RCS No.232 of 2002 shall not be influenced by any of the observations made by the learned trial Judge or by the learned Assistant Judge and shall decide the suit on the basis of the evidence adduced before him strictly in accordance with law.**

4. **It is expected of the learned Civil Judge (J.D.),. Himatnagar to give expeditious hearing to the suit and dispose it of as early as possible and in any case on or before 30.4.2006. It is also expected of both the parties that they shall cooperative for the**

expeditious disposal of the suit.

5. With the aforesaid observation and direction, this petition stands disposed of with no order as to costs. Rule is discharged. Interim relief granted earlier shall stand vacated.

(A.M. Kapadia, J.)

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(karan)